

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

KALVIN BURRIS, on behalf of himself ) CASE NO. 1:18-cv-01689  
and all others similarly situated, )  
Plaintiff, ) JUDGE JAMES S. GWIN  
vs. )  
APPLIED MEDICAL TECHNOLOGY, INC. ) **JOINT STIPULATION TO**  
Defendant. ) **CONDITIONAL CERTIFICATION AND**  
  ) **NOTICE**

Plaintiff Kalvin Burris (“Plaintiff”) and Defendant Applied Medical Technology (“Defendant” or “Applied Medical”), pursuant to section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. 216(b), hereby jointly agree to conditional collective action certification of this FLSA action and the issuance of notice to potential opt-in plaintiffs. The parties request that the Court approve the enclosed notice. Subject to approval by the Court, the parties will provide notice to the potential opt-in plaintiffs on November \_\_\_, 2018, in accordance with the following schedule:

- 1) The following collective action is stipulated as conditionally certified pursuant to Section 16(b) of the FLSA: All former and current manufacturing employees of Applied Medical Technology, Inc. between November \_\_\_, 2015 and the present. The parties jointly submit Exhibit 1 containing proposed language for notification and consent forms to be authorized by the Court;
- 2) Within ten (10) days of the Court certifying the collective action, Defendant shall provide to Plaintiff a list (in Microsoft Office Excel format) containing the name, last known home address (including zip code), telephone number, and email address , to the extent that

Defendant has such information in its possession, of all former and current non-exempt manufacturing employees of former and current manufacturing employees of Applied Medical Technology, Inc. between November \_\_\_, 2015 and the present;

3) Plaintiff shall mail the proposed notice attached as Exhibit 1 to the individuals appearing on the list referred to in paragraph 2 via First-Class Mail and Email on November \_\_\_, 2018;

4) The opt-in period will close as to the potential opt-in plaintiffs on December \_\_\_, 2018;

5) Counsel for the parties shall not contact any of the potential opt-in plaintiffs for the purpose of discussing their participation in this lawsuit through the end of the opt-in period, except that Plaintiff's counsel may respond to inquiries from the potential opt-in plaintiffs during this time, but shall not improperly encourage potential opt-in plaintiffs to join the lawsuit.

Plaintiff's counsel may contact potential opt-in plaintiffs to obtain an updated address if their notice is returned as undeliverable, and Plaintiff's counsel may contact the potential opt-in plaintiffs after they have formally opted in; and

6) Defendant is not waiving any rights or defenses by virtue of this stipulation.

Defendant expressly preserves all rights and defenses, including, but not limited to, seeking to decertify the conditional collective action, objecting to the proposed final collective action certification, objecting to the three-year statute of limitations utilized in the notice based on lack of a willful violation, arguing against any liability on the part of Defendant, and objecting to the proposed collective action as not meeting the requirements of Fed. R. Civ. 23 and section 16(b) of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. 216(b) and/or any other legal and/or factual basis.

Respectfully submitted,

/s/ Chastity L. Christy

Anthony J. Lazzaro (0077962)  
Chastity L. Christy (0076977)  
Lori M. Griffin (0085241)  
The Lazzaro Law Firm, LLC  
920 Rockefeller Building  
614 W. Superior Avenue  
Cleveland, Ohio 44113  
Phone: 216-696-5000  
Facsimile: 216-696-7005  
[anthony@lazzarolawfirm.com](mailto:anthony@lazzarolawfirm.com)  
[chastity@lazzarolawfirm.com](mailto:chastity@lazzarolawfirm.com)  
[lori@lazzarolawfirm.com](mailto:lori@lazzarolawfirm.com)

Attorneys for Plaintiff

/s/ Rina R. Russo

Rina R. Russo (0087761)  
Mark S. Fusco (0040604)  
Jessica B. Loucks (0097498)  
Walter Haverfield LLP  
The Tower at Erieview  
1301 E. Ninth Street, Suite 3500  
Cleveland, Ohio 44114  
Phone: 216-781-1212  
Facsimile: 216-575-0911  
[rrusso@walterhav.com](mailto:rrusso@walterhav.com)  
[mfusco@walterhav.com](mailto:mfusco@walterhav.com)  
[jloucks@walterhav.com](mailto:jloucks@walterhav.com)

Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on October 31, 2018, a copy of the foregoing *Joint Stipulation to Conditional Certification and Notice* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access the filing through the Court's system.

/s/ Chastity L. Christy

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